

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

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**IN RE: PUERTO RICO ELECTRIC POWER
AUTHORITY RATE REVIEW**

CASE NO.: NEPR-AP-2023-0003

**SUBJECT: Independent Consumer Protection
Office’s Legal Brief on Rate Design**

**INDEPENDENT CONSUMER PROTECTION OFFICE’S
LEGAL BRIEF ON RATE DESIGN**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Independent Consumer Protection Office of the Public Service Regulatory Board (hereinafter, “ICPO or OIPC”, for its Spanish acronym), by and through the undersigned attorneys, and respectfully STATES and PRAYS as follows:

1. On June 30, 2023, the Puerto Rico Energy Bureau of the Puerto Rico Public Service Regulatory Board (hereinafter, “Energy Bureau or PREB”) issued a *Resolution and Order* initiating the instant case under number NEPR-AP-2023-0003/*Puerto Rico Electric Power Authority Rate Review*, in accordance with the provisions of Act 57-2014, as amended, known as the “*Puerto Rico Energy Transformation and RELIEF Act*” (hereinafter, “Act 57-2014”).¹

2. On February 12, 2025, the Energy Bureau issued a *Resolution and Order* (hereinafter, “February 12 Order”) establishing the filing requirements and procedures for the Rate Review of the Puerto Rico Electric Power Authority (hereinafter, “PREPA”).²

3. Consistent with our ministerial duty and the authority granted by Act 57-2014, *supra*, on April 4, 2025, the OIPC filed a document titled “*Moción Notificando Intervención de la Oficina Independiente de Protección al Consumidor*”, notifying this Energy Bureau of our

¹ See, PREB’s *Resolution and Order*, dated June 30, 2023.

² See, PREB’s *Resolution and Order*, dated February 12, 2025.

intention to participate in the present proceeding in defense and representation of Puerto Rico's electric service consumers.

4. On July 3rd, 2025, LUMA filed a *Motion Submitting Rate Review Petition* (hereinafter, "*July 3rd Rate Review Petition*") requesting, among other things, that the Energy Bureau approve a temporary or provisional rate increase pursuant to Section 6.25 (e) of Act 57-2014, to be collected in the interim period (commencing on September 1, 2025) while the PREB adjudicate the utility revenue requirement.³

5. On that same date, this Energy Bureau granted OIPC's intervention stating that "under the intervention criteria, the OIPC clearly satisfies all relevant factors: it has a legitimate interest that may be adversely affected by this tariff review, its statutory mandate to represent consumer interests cannot be adequately protected through other legal means, and its specialized expertise in consumer protection contributes valuable perspectives not otherwise available. This Bureau stated that "OIPC's intervention is not merely appropriate but legally mandated under the governing statute."⁴

6. On July 7th, 2025, the PREB issued an *Order* setting deadlines relating to provisional rates granting intervenors until July 10th, 2025, to submit requests of information to LUMA relating to its request for provisional rates, and until July 11th, 2025, for objections to, statements of support for, or comments about LUMA's request for provisional rates.⁵

7. After several procedural developments, on July 14th, 2025, the PREB issued an *Order* granting intervenors until July 25th, 2025, to submit any final comments on the provisional rate. On said deadline, the OIPC submitted a document titled "*Independent Consumer Protection*

³ See, LUMA's *Motion Submitting Rate Review Petition* dated July 3rd, 2025, at page 3.

⁴ See, PREB's *Resolution* dated July 3, 2025, at page 3.

⁵ See, PREB's *Order* dated July 7, 2025.

Office's Comments on LUMA and Genera's Request for Provisional Rate Adjustment (hereinafter, "OIPC's Comments on Provisional Rates").

8. On July 31st, 2025, this Energy Bureau issued a *Resolution and Order* establishing the Fiscal Year 2026 Provisional Rates and Fiscal Year 2026 Provisional Budget (hereinafter, "July 31st Order on Provisional Rates").⁶

9. On September 8, 2025, all intervenors in this proceeding, including the OIPC, filed their respective *Answering Testimony*, after which, on October 30, 2025, LUMA filed a motion entitled *Motion Submitting LUMA's Surrebuttal Testimonies*.

10. Thereafter, following multiple procedural orders issued by the Hearing Examiner and additional filings by the parties, the evidentiary hearings in this proceeding were conducted from November 12, 2025, through December 19, 2025.

11. On December 22, 2025, the Hearing Examiner issued an order entitled *Hearing Examiner's Order on Exhibits, Miscellaneous, Post-Hearing Matters, and Legal Issues*, which established, among other things, the post-hearing briefing schedule. As set forth in that Order, the deadline for Initial Briefs on Revenue Requirement was January 20, 2026, and Reply Briefs were due on February 2, 2026. The deadline for Initial Briefs on Rate Design was February 9, 2026, with Reply Briefs due on February 23, 2026. Initial Briefs on Legal and Policy Issues were scheduled to be filed on March 6, 2026, with corresponding Reply Briefs due later in March 2026.

12. On January 9, 2026, LUMA filed a Motion Submitting Revised Revenue Requirement (hereinafter, the "Revised Petition").

⁶ See, PREB's *Resolution and Order*, dated July 31st, 2025.

13. After an extension of time was granted to file the Initial Brief on Revenue Requirement, the OIPC filed its Initial Legal Brief on Revenue Requirement on January 23, 2026, the extended deadline established by the Bureau.

14. Following the filing of the Initial Briefs on Revenue Requirement, on February 9, 2026, PREPA filed a Motion for Extension of Time to File Reply Brief on Revenue Requirement and Rate Design Briefs.

15. After several procedural incidents and related filings, the Energy Bureau extended the deadline until February 17, 2026, for the filing of Reply Briefs on Revenue Requirement and the Initial Brief on Rate Design. The reply to Initial Design Brief was extended to March 3, 2026.

I. **INTRODUCTION:**

16. Act 57-2014, *supra*, delegated on the Energy Bureau the duty to modify the rates charged by PREPA. To that extent, Act. 57-2014, establishes:

Section 6.3. — Powers and Duties of the Energy Bureau.

(...)

(k) Review and approve and, if applicable, modify the rates or fees charged by electric power service companies in Puerto Rico in connection with any matter directly or indirectly related to the provision of electric power services.

17. Regarding the process to be followed by the Energy Bureau, Act 57-2014, states the following:

Section 6.25. — Review of Electricity Rates.

(a) In General. — The Energy Bureau shall be in charge of following the process established herein to review and approve the electric power service companies' proposed rate reviews. The Energy Bureau shall ensure that all rates are just and reasonable and consistent with sound fiscal and operational practices that provide for a reliable and adequate service at the lowest reasonable cost. The regulations of the Energy Bureau for the rate review process shall comply with such principles.

(...)

(c) Rate Modification. — Every rate modification request previously approved by the Energy Bureau shall be filed with the Energy Bureau. The request shall state the grounds for the modification, the effect of such modification on the revenues and expenditures of the requestor, and any other information requested by the Energy Bureau through regulations or resolution. The Energy Bureau may initiate, motu proprio, or at the request of the Independent Consumer Protection Office or any other interested party, the rate review process when it is in the best interest of customers. Any modification to a rate proposed, whether to increase or decrease the same, shall undergo a discovery and a public hearing process to be held by the Energy Bureau to determine whether the proposed change is just and reasonable and consistent with sound fiscal and operational practices that provide for a reliable and adequate service, at the lowest reasonable cost. The Energy Bureau shall provide an opportunity to allow the participation of ICPO, the Energy Public Policy Program, the citizens, and interested parties in the process. The review and the order issuance processes shall not exceed one hundred eighty (180) days from the Energy Bureau's determination by resolution that the rate review request is complete; provided, however, that the Energy Bureau may extend the review process for an additional term that shall not exceed sixty (60) days.

(d) Temporary Rate Adjustment. — At the request of an electric power company, the Bureau may authorize an electric power service rate adjustment due to emergency or temporary events. Such request must be accompanied by all the documentation and information available that, in the judgment of the electric power company requesting it, warrants the temporary rate adjustment. The Bureau's preliminary determination authorizing or rejecting the proposed temporary rate adjustment shall be duly grounded, and issued and published not later than ten (10) days after the adjustment has been requested. If a temporary rate adjustment is approved, the Energy Bureau shall direct the requesting electric power company to issue a public notice informing the change and explaining, in general terms, the reasons that led to such temporary rate adjustment. If it is determined that a temporary rate adjustment is warranted, the Bureau shall hold public hearings within a term that shall not exceed thirty (30) days from the effective date of the temporary rate adjustment, where the requesting company and the general public shall have the opportunity to present evidence or expert testimony and documentary evidence supporting their respective positions. The Bureau shall issue a final determination as to whether a temporary rate adjustment is warranted within a term not to exceed sixty (60) days after the hearing process ends. If it is determined that the temporary rate adjustment is warranted, the Bureau shall fix the duration and amount thereof. If the temporary rate adjustment is rejected, the Bureau shall determine whether the rates shall be adjusted for

consumers to offset any difference resulting from the period in which the preliminary temporary rate adjustment was in effect. Failure to hold the public hearings shall render the temporary rate adjustment void. The effective term of temporary rate adjustment shall not exceed one hundred eighty (180) days as of the authorization thereof by the Bureau. The temporary rate adjustment herein established herein shall not be considered as a temporary rate.

(...)

(f) Final Determination of the Bureau. — Upon concluding the public hearing process, the Energy Bureau shall issue its final determination with regards to the rate review request and establish the electricity rate it deems just and reasonable. Such a determination shall be duly grounded and comply with all the safeguards of the due process of law applicable to the final determinations of administrative agencies. The Bureau shall publish and notify its determination on its webpage, together with the authorized rate duly itemized pursuant to the transparent bill requirements. The newly approved rate shall take effect sixty (60) days after the effective date of the Bureau's order. The Energy Bureau may extend or reduce such term at the request of the rate change requestor, but it shall never be less than thirty (30) days after the effective date of the Bureau's order. Upon issuing a final order after the rate review process, the Energy Bureau shall direct the requesting company to adjust customers' bills so as to credit or charge any discrepancy between the temporary rate established by the Bureau and the permanent rate approved by the Energy Bureau.

18. As previously noted, in its *February 12 Order*, the Energy Bureau established the scope and procedures governing this proceeding. In that *Order*, the Bureau determined that in this proceeding, they will set permanent rates for FY2026, and projected rates for FY2027 and FY2028. The rates are to reflect both known and projected costs, including the costs to carry out actions required by the existing Integrated Resource Plan and the Integrated Resource Plan for 2024-2025 that LUMA will file this year. The Energy Bureau will convert the projected rates for FY2027 and FY2028 into permanent rates through a procedure to be specified in the current proceeding's final Order.⁷

⁷ See PREB's *Resolution and Order* dated February 12, 2025, at pages 2-3.

19. The PREB also established that “[t]his proceeding will function simultaneously as a budget proceeding and a rate proceeding. Doing so merges two processes that have become separated. The 2017 rate order envisioned the budget process and the rate case process as companions: annual reviews of budgets, and triennial reviews of rates. For eight years we have had reviews of budgets without reviews of rates. This combination of budget approval and rate approval is reflected in the Filing Requirements accompanying this Order. Schedules A-1 and A-2 will contain, respectively, an Optimal Budget and a Constrained Budget, each organized according to the outline in the Appendix. That an item is listed in that outline does not commit the Energy Bureau to approving any particular cost level. Schedules B through H will contain the information necessary to calculate new rates based on the new budget.”⁸

20. In the Optimal Budget there are no tradeoffs among activities; every activity receives the necessary costs. That is why it is called the Optimal Budget. For the Constrained Budget, tradeoffs are unavoidable; the Energy Bureau will have to elevate some needs over others. But the revenue requirement still must give LUMA and Genera a reasonable opportunity to achieve the metrics that trigger for each operator its respective incentive fee.⁹

21. In addressing the revenue requirement for the Constrained Budget, therefore, the Energy Bureau will need to adjust the metrics, or the allocation of compensation, or both, to reflect the lower budget amount that some areas of the Constrained Budget will receive as compared to the Optimal Budget. The Energy Bureau has the authority to make these adjustments in this rate proceeding. Section 1.5 (3)(d) of Act 17-2019 states: "When deemed appropriate, during ratemaking processes, the Bureau shall establish performance-based incentives and penalty mechanisms for electric power service companies as well as mechanisms that ensure strict

⁸ *Id* at page 3.

⁹ *Id* at page 5.

compliance with the orders of the Bureau(...). Any adjustment shall consider the metrics approved by the Energy Bureau in the performance metric proceeding and shall be consistent with just-and-reasonable ratemaking.¹⁰

22. Throughout this process, the Energy Bureau has reiterated the governing legal standard, rates must be just and reasonable, supported by substantial evidence, reflective of actual cost of service. The burden of proof rests squarely on the proposing parties to demonstrate that each component of the revenue requirement is prudent.

23. This legal brief focuses on the rate design component of this proceeding. It does not challenge the Energy Bureau's authority to approve necessary investments, nor does it dispute that improvements to Puerto Rico's electric system require adequate funding. Rather, OIPC's analysis is directed at whether the proposed rate structures, cost allocations, fixed and volumetric charge design, riders, and revenue recovery mechanisms are lawful, equitable, transparent, and supported by substantial evidence. In particular, OIPC examines whether the proposed rate design aligns with cost causation principles, protects consumers from undue risk shifting, preserves meaningful price signals, and complies with statutory mandates and regulatory precedent.

24. As detailed in the sections that follow, the evidentiary record reveals material deficiencies in the proposed rate design. These deficiencies include excessive reliance on fixed or unavoidable charges, insufficient demonstration that customer charges correspond strictly to customer-related costs, reliance on modeled allocations that are not fully reconciled with record evidence, inadequate protection for low-usage and vulnerable customers, and the introduction of structural mechanisms that prioritize revenue stability over consumer equity. Left uncorrected,

¹⁰ *Id.*

these design flaws would result in rates that may recover revenues reliably but do not ensure that such recovery is fair, transparent, or economically efficient.

25. Accordingly, OIPC respectfully submits this Rate Design Brief to assist the Energy Bureau in fulfilling its statutory responsibilities and to provide a clear, evidence-based framework for evaluating whether the proposed rate structures in this proceeding are just, reasonable, and consistent with Puerto Rico's energy policy objectives.

II. OIPC'S LEGAL BRIEF:

26. LUMA's proposed rate design is presented primarily through the Direct Testimony of Sam Shannon, Associate Director at Guidehouse, submitted as LUMA Exhibit 20.00. Mr. Shannon sponsors LUMA's cost-of-service study, revenue allocation, and proposed rate structures for FY2026 through FY2028, including customer charges, riders, bill impacts, and a proposed decoupling mechanism.

27. According to Mr. Shannon, LUMA's rate design proposal is intended to accomplish several interrelated objectives. First, LUMA seeks to spread the approved revenue increases over a three-year period in an effort to mitigate immediate effect to customers.¹¹ Second, the proposal includes a redesign of tariff structures that LUMA asserts will improve transparency and clarity in customer bills.¹² Third, LUMA proposes modifications to existing fixed charges and riders, including adjustments related to the Contribution in Lieu of Taxes (CILT) and the recovery of subsidies.¹³ In addition, LUMA introduces new riders, such as an Outage Recovery Rider and a Legacy Debt Rider, which are intended to address specific cost categories outside the base rate.¹⁴ Finally, Mr. Shannon proposed a decoupling mechanism within the rate design, structured to

¹¹ See, LUMA's Exhibit 20, at page 20, lines 463-470.

¹² *Id.*, at page i, lines 52-61.

¹³ *Id.*, at page 32, lines 735-743.

¹⁴ *Id.*, at page 35-38, lines 818-871.

preserve revenue sufficiency in the face of declining energy sales resulting from energy efficiency programs and the growth of distributed generation.¹⁵

28. While OIPC recognizes the complexity of the system and the challenges facing the electric sector, none of these objectives relieve LUMA of its burden to demonstrate that its proposed rate design is just and reasonable and supported by substantial evidence.

29. In the absence of a rate design proposal consistent, and aligned with statutory and regulatory requirements, this Energy Bureau has the authority to approve the best rate design available on record. In doing so, the Bureau must exercise its independent judgment and regulatory discretion, guided by the fundamental principles that govern ratemaking.

30. In that context, the OIPC respectfully brings before this Energy Bureau the following considerations, which must inform and guide the Bureau's determination in this matter: the need to preserve cost causation by maintaining a reasonable relationship between usage and cost responsibility; the protection of residential and small commercial customers from disproportionate bill impacts; the avoidance of structural features that undermine conservation and energy efficiency signals, particularly in a system increasingly shaped by distributed generation; the requirement that efficiencies and non-electric revenues be properly reflected for the benefit of consumers; and the overarching obligation to ensure that rates remain just, reasonable, transparent, and consistent with the public interest.

A. OIPC's General Concern with LUMA's Rate Design

31. The central defect in LUMA's rate design proposal lies not merely in the level of the resulting rates, but in the structure through which those rates are designed to recover revenues. As presented, the proposal shifts an increasing share of system costs into fixed or otherwise

¹⁵ *Id.*, at page 31, lines 706-710

unavoidable charges, weakening the traditional relationship between electricity usage and cost responsibility. By doing so, it reduces customers' ability to manage or lower their bills through conservation, energy efficiency, or demand management. This structure reflects policy choices that prioritize stability for the operator over consumer protection, yet these choices are not supported by adequate justification in the evidentiary record.

32. Moreover, LUMA's proposal relies extensively on modeled cost allocations and forecasted bill impacts, without meaningfully reconciling those projections with key elements of the record. In particular, the proposal does not account for documented efficiency gains that LUMA has claimed elsewhere in this proceeding, does not align with historical billing and collection performance, and does not reflect or incorporate the Energy Bureau's prior findings in the provisional rate phase. This inconsistency between projections and record evidence undermines the credibility of the proposed design.

33. As a result, the Energy Bureau is presented with a rate design that may reliably collect revenues, but does not demonstrate that those revenues are collected in a fair, equitable, or economically efficient manner.

34. OIPC does not dispute that the utility must recover sufficient revenues, nor does it deny that some level of rate increase may be unavoidable given the current condition of Puerto Rico's electric system. However, the manner in which revenues are recovered is critical. Rate design must not function as a mechanism to insulate the operator from operational or performance risk, to socialize inefficiencies across the customer base, or to perpetuate structural inequities that disproportionately burden residential and small commercial customers.

35. OIPC understands the practical rationale underlying LUMA's proposal to increase fixed charges. Increasing fixed or unavoidable charges predictably increases revenue stability

because such charges apply broadly across the customer base, including customers whose volumetric consumption may be low or suppressed for various reasons. These include subsidized customers, participants in net metering program, and customers whose recorded consumption may not fully reflect actual usage due to meter tampering or energy theft. From a purely revenue-collection perspective, fixed charges ensure that all customers contribute to system funding, regardless of measured consumption.

36. Nevertheless, the very characteristics that make fixed charges attractive from a revenue standpoint also constitute their principal downside from a regulatory and consumer-protection perspective. Fixed charges dilute the connection between consumption and cost responsibility, disproportionately burden low-usage customers, and penalize those who actively manage demand, invest in energy efficiency, or reduce consumption through conservation. As fixed charges increase, customers' ability to control their bills through behavioral or technological choices correspondingly diminishes, undermining long-standing regulatory objectives and public policy goals.

37. The task before this Honorable Energy Bureau, therefore, is not simply to assess whether increasing fixed charges improves revenue sufficiency, but to determine how such increases can be reconciled with the Bureau's statutory obligations to protect consumers, preserve cost causation principles, and promote efficient system use. This requires a careful balancing of revenue adequacy against affordability, equity, and incentive alignment, particularly for low-consumption customers and those who accurately measure and responsibly manage their energy use.

38. In the absence of a fully supported and well-balanced rate design proposal from LUMA that meaningfully addresses these tradeoffs, the Energy Bureau bears the responsibility to

impose a rate structure that achieves revenue sufficiency without unduly shifting risk, eroding efficiency incentives, or imposing disproportionate burdens on vulnerable customer classes.

B. Deficiencies in LUMA’s Cost of Service Study as Applied to Rate Design

39. LUMA’s proposed rate design relies heavily on its underlying Cost of Service Study (“COSS”), sponsored by Mr. Sam Shannon. However, as reflected in the record, the COSS suffers from structural limitations that undermine its suitability as the foundation for permanent rate design.

40. First, PREPA is not fully compliant with the FERC Uniform System of Accounts. As Mr. Shannon acknowledged, LUMA was required to make “rudimentary” functionalization decisions, including allocating transmission and distribution costs based on miles of line rather than asset condition, usage, or cost drivers.¹⁶ This approach may be expedient, but it lacks the precision necessary to support durable rate design conclusions.

41. Second, LUMA does not separately track transmission and distribution expenses within its own accounting systems. As a result, the allocation of GridCo costs between functions is based on proxy assumptions rather than actual cost causation. This limitation directly affects the classification of costs as demand, energy, or customer-related, which in turn affects rate structure decisions.

42. Third, these structural weaknesses are compounded when used to justify changes that materially affect customer bills, such as increased fixed charges, redesigned riders, and revenue decoupling. Where the underlying cost allocation is uncertain, the Bureau must exercise heightened caution before approving rate structures that reduce volumetric price signals or lock in cost recovery regardless of usage.

¹⁶ See, LUMA’s Exhibit 20, at page 7, lines 198-206.

C. Customer Charges and Fixed Cost Recovery

43. LUMA proposes increases in customer charges and the recovery of certain costs through fixed monthly charges¹⁷, including the consolidation of subsidies and riders¹⁸ into non-bypassable charges. While fixed charges can play a legitimate role in recovering customer-related costs, excessive reliance on fixed charges raises serious consumer protection concerns.

44. Fixed charges disproportionately burden low-usage customers, including low-income households, energy-efficient customers, and customers with limited ability to reduce consumption. Increasing fixed charges also weakens price signals that encourage conservation, efficiency, and demand response, outcomes that the Commonwealth's energy policy expressly seeks to promote.

45. The record does not demonstrate that LUMA has rigorously quantified which portions of its revenue requirement are truly customer-related, nor that the proposed fixed charges are limited to those costs. Instead, the proposed structure risks shifting demand, and energy related costs into unavoidable monthly charges, insulating LUMA from volumetric risk while exposing consumers to higher unavoidable bills.

46. In evaluating alternatives to excessive fixed charge recovery, the Energy Bureau should also consider the implementation or expansion of the actual consumption-based tiers within volumetric rates. A tiered rate structure, under which higher levels of consumption are charged at progressively higher per-kWh rates, can serve multiple legitimate regulatory objectives simultaneously.

47. First, tiered rates align more closely with principles of equity and progressive cost responsibility. Customers who consume more electricity typically place greater demands on the

¹⁷ LUMA's Exhibit 20, at page 22, lines 516-527

¹⁸ *Id.* at page 32, lines 735-743

system, both in terms of energy and infrastructure utilization. A tiered structure ensures that those who consume more contribute proportionally more to system costs, rather than shifting those costs into flat charges that apply equally to low-usage and high-usage customers.

48. Second, tiered rates preserve and strengthen price signals that encourage energy efficiency and conservation. By increasing marginal costs at higher usage levels, tiered structures incentivize customers to manage consumption, invest in efficiency measures, and reduce peak demand. These outcomes are consistent with Puerto Rico's public energy policy, which promotes energy efficiency, distributed generation, and demand-side management as tools for improving system sustainability and resilience.

49. Third, tiered volumetric recovery mitigates the regressive impact of fixed charges. Low-usage customers, many of whom are low-income households, elderly residents, or individuals living in smaller dwellings, are better protected under a tiered structure than under a flat or heavily fixed design. At the same time, higher-consuming customers retain flexibility and choice: they may either absorb higher marginal costs or reduce usage to manage their bills.

50. Importantly, tiered rates do not eliminate revenue sufficiency. They simply distribute cost recovery in a way that is more closely aligned with usage patterns and policy goals. When properly calibrated using billing determinants and class load data, tiered structures can recover required revenues while improving fairness and reinforcing conservation incentives.

51. Accordingly, if the Bureau determines that additional revenue must be recovered through volumetric mechanisms, it should evaluate whether implementing or expanding actual consumption tiers would better reconcile revenue needs with consumer protection and energy policy objectives than increasing fixed charges.

D. Bill Impacts

52. LUMA's bill impact analyses demonstrate that many customers will experience meaningful increases under the proposed rate design. While some increase may be unavoidable given system conditions, the magnitude and distribution of those impacts must be carefully scrutinized.

53. The record reflects that LUMA's bill impact analysis assumes acceptance of the proposed rate structures, riders, and revenue allocation without adequately exploring less harmful alternatives. In particular, LUMA does not sufficiently analyze scenarios that reduce fixed charges, strengthen volumetric recovery, or more aggressively credit non-rate revenues to offset customer bills.

54. The OIPC emphasizes that rate shock is not merely a billing concern; it is an equity issue. Sharp or unavoidable increases undermine affordability, compliance, and public confidence in the regulatory process. The Bureau should therefore require modifications to the proposed rate design that reduce bill impacts for vulnerable customer segments while preserving appropriate cost recovery.

E. Decoupling Mechanism

55. LUMA proposes a revenue decoupling mechanism beginning in FY2028, asserting that it is necessary to protect financial stability amid declining sales due to efficiency and distributed generation. While decoupling can be an appropriate tool in certain contexts, the OIPC does not support its adoption in this proceeding as presently proposed.

56. Decoupling is not inherently improper. In jurisdictions experiencing accelerating DER penetration, it may be used to align utility incentives with energy efficiency and clean energy policies by removing the disincentive to support reduced consumption. However, decoupling does

not eliminate financial risk, it reallocates it. In practice, a decoupling mechanism converts deviations between forecasted and actual sales into automatic rate adjustments. In a system such as Puerto Rico's, where load forecasts are highly uncertain due to DER growth, conservation measures, demographic shifts, and extreme weather variability, decoupling risks transforming forecasting uncertainty into recurring customer surcharges.

57. The evidentiary record does not demonstrate that LUMA has quantified efficiencies or shown that declining sales are materially impairing revenue sufficiency under current mechanisms.

58. Moreover, decoupling is particularly problematic when layered over constrained or hybrid budgets. When the Bureau deliberately constrains certain costs for affordability reasons, a broadly applied decoupling mechanism risks, backfilling those constrained elements through automatic adjustments. In hybrid budgets, where some cost components are approved at optimal levels and others are intentionally limited, decoupling must be explicitly confined to those cost categories the Bureau has affirmatively determined to be prudent, necessary, and recoverable. Otherwise, affordability protections established in this proceeding could be gradually eroded outside the transparency of a future rate case

59. Additionally, decoupling must not overlap with expanded fixed charges. If fixed monthly charges are increased to improve revenue stability and then included within the revenue base subject to decoupling, customers would effectively guarantee recovery of the same costs twice, first through unavoidable fixed payments, and again through decoupling adjustments. Such overlapping revenue protection undermines cost causation principles and materially weakens consumer safeguards. Any decoupling mechanism, if adopted, must exclude fixed charges and rider-recovered revenues from its scope.

60. From a consumer protection standpoint, the context matters. Puerto Rico's households face high energy burdens and relatively low incomes compared to U.S. jurisdictions. Many customers do not qualify for subsidies yet still experience significant affordability constraints. In such an environment, automatic rate adjustment mechanisms require heightened scrutiny. Even modest decoupling adjustments can generate significant public distrust when customers already question billing accuracy and rate transparency.

61. Finally, LUMA seeks decoupling while simultaneously resisting quantification of operational efficiencies and accountability mechanisms that would ensure those efficiencies are reflected in rates. Decoupling without quantified efficiencies, measurable performance benchmarks, and explicit consumer protections risks creating a structural imbalance in which LUMA is insulated from both volumetric risk and efficiency obligations. That outcome would shift economic risk disproportionately onto customers while weakening incentives for cost control.

62. For all these reasons, OIPC respectfully submits that the proposed decoupling mechanism is premature and unsupported by the current record. If the Bureau determines that some form of decoupling may be appropriate in the future, it should be narrowly scoped, tightly capped, transparent, and limited exclusively to clearly defined core fixed costs that remain genuinely exposed to sales variability and that have been expressly reviewed and approved in base rates. Absent such safeguards, the proposed mechanism should be rejected or deferred.

III. CONCLUSION ON RATE DESIGN

63. For the reasons stated above, the OIPC respectfully submits that LUMA's proposed rate design, as currently presented, is not supported by substantial evidence and does not adequately protect consumers. The Bureau should require revisions that: (a) Strengthen the linkage between cost causation and rate structure; (b) Limit fixed charges to clearly demonstrated

customer-related costs; (c) Mitigate bill impacts and protect affordability; (d) Reject or defer decoupling absent quantified efficiencies; and (e) Ensure that non-rate revenues and efficiencies are fully credited to ratepayers.

64. Only through these adjustments can the Energy Bureau fulfill its statutory mandate and ensure that rates approved in this proceeding are just, reasonable, and consistent with Puerto Rico's energy policy objectives.

WHEREFORE, it is respectfully requested that this Honorable Bureau take notice of the aforementioned for the purpose of the evaluation and determination of the provisional rate.

RESPECTFULLY submitted today, February 17, 2027.

I HEREBY CERTIFY that on this date a copy of this motion has been electronically filed with the Clerk of the Puerto Rico Energy Bureau and that I have emailed a copy of this motion to the following email addresses: Scott Hempling, shempling@scotthemplinglaw.com; and to the attorneys of the parties of record: mvalle@gmlex.net; alexis.rivera@prepa.pr.gov; jmartinez@gmlex.net; jgonzalez@gmlex.net; nzayas@gmlex.net; Gerard.Gil@ankura.com; Jorge.SanMiguel@ankura.com; Lucas.Porter@ankura.com; mdiconza@omm.com; golivera@omm.com; pfriedman@omm.com; msyassin@omm.com; katuska.bolanos-lugo@us.dlapiper.com; Yahaira.delarosa@us.dlapiper.com; margarita.mercado@us.dlapiper.com; carolyn.clarkin@us.dlapiper.com; andrea.chambers@us.dlapiper.com; regulatory@genera-pr.com; legal@genera-pr.com; mvazquez@vvlawpr.com; gvilanova@vvlawpr.com; dbilloch@vvlawpr.com; ratecase@genera-pr.com; jfr@sbgblaw.com; hrivera@jrsp.pr.gov; gerardo_cosme@solartekpr.net; contratistas@jrsp.pr.gov; victorluisgonzalez@yahoo.com; Cfl@mcvpr.com; nancy@emmanuelli.law; jrinconlopez@guidehouse.com;

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